

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christer SINDERBY et al.

Serial No.: 10/576,636

Filed: March 12, 2007

For: COMBINED POSITIVE AND NEGATIVE
PRESSURE ASSIST VENTILATION

Group Art Unit: 3771

Examiner: Clinton T. Ostrup

Atty. Dkt. No.: BRKP:021US

Confirmation No.: 5708

CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this correspondence is being electronically filed
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May 20, 2011
Date

David D. Bahler

LETTER OF GOOD FAITH AND CANDOR

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Issue Notification dated March 2, 2011 indicates a patent term adjustment of 913 days. Patentees believe the patent term adjustment should be reduced to 886 days.

REMARKS

Pursuant to 37 C.F.R. § 1.704, any patent term adjustment accrued in an application will be reduced by the time period during which an applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Patent Office mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) on November 13, 2006. Patentees filed a Response to this Notification on March 12, 2007. The Patent Office failed to count this period of Applicant Delay beginning on February 13, 2007 and ending on March 12, 2007, a period of 27 days. Due to this additional period of delay, the total period of Applicant Delay should be 158 days.

To calculate the period of patent term adjustment, the total period of non-overlapping Office Delay, which the Office correctly calculated as a period of 1,044 days, is reduced by the period of Applicant Delay, which should be calculated as a period of 158 days. Accordingly, Applicants submit that the correct patent term adjustment for the above-referenced application is 886 days.

CONCLUSION

For the reasons set forth above, Applicants believe the calculation of patent term adjustment is incorrect. As such, Applicants respectfully request reconsideration of the PTA in the following manner:

- 1) Total Office delay should be calculated as 1,044 non-overlapping days;
- 2) Total Applicant delay should be calculated as 158 days; and
- 3) Total PTA should be calculated as 886 days.

It is believed that no fee is due with this communication, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed document, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/BRKP:021US.

Respectfully submitted,



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